

SENATE BILL No. 472

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-37-7; IC 6-3-2-4; IC 10-16; IC 14-19-3-6; IC 14-22-12-7.3; IC 21-13-4; IC 22-4.1-4-3; IC 22-9-10; IC 33-23-9-1.

Synopsis: Various veterans' matters. Creates the servicemembers civil relief act. Provides that protections under Indiana's civil relief act supplement protections for servicemembers under the federal servicemembers civil relief act. Removes the age limit on the military service income tax deduction. Provides for the rights, benefits, and protections of the federal Soldiers' and Sailors' Civil Relief Act to apply to members of the armed forces on active duty or, if applicable, the spouse or dependent of a member of the armed forces on active duty. (Current law provides for the rights, benefits, and protections of the Act to apply to members of the Indiana national guard on active duty.) Provides free admission for veterans to state parks, playgrounds, and historical sites held or managed by the department of natural resources (department). Provides for a 25% reduction for veterans of any fees charged for facilities, lodging, and recreational activities held or managed by the department. Establishes for veterans a free lifetime license to hunt, fish, or trap. Requires, under certain circumstances, the department of workforce development to give a member of the armed forces of the United States, reserves, or National Guard or the spouse of a member of the armed forces of the United States, reserves, or National Guard priority for placement in any federal or state employment or training program administered by the department of workforce development. (Current law provides that this priority be given only to members of the National Guard or their spouses.) Allows members of the Indiana reserve component of the armed forces to receive a scholarship from the National Guard Tuition Supplement Program (program). Makes certain changes to the program. Provides (Continued next page)

Effective: July 1, 2015.

Merritt

January 14, 2015, read first time and referred to Committee on Veterans Affairs & The Military.



Digest Continued

funding for the program. Provides employment protections for veterans. Creates a private right of action for veterans regarding employment law violations. Makes an appropriation.



First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 472

A BILL FOR AN ACT to amend the Indiana Code concerning military and veterans and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-37-7, AS AMENDED BY P.L.80-2014,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 7. (a) If a person fails to file a required personal
4 property return on or before the due date, the county auditor shall add
5 a penalty of twenty-five dollars (\$25) to the person's next property tax
6 installment. The county auditor shall also add an additional penalty to
7 the taxes payable by the person if the person fails to file the personal
8 property return within thirty (30) days after the due date. The amount
9 of the additional penalty is twenty percent (20%) of the taxes finally
10 determined to be due with respect to the personal property which
11 should have been reported on the return.
12 (b) For purposes of this section, a personal property return is not due
13 until the expiration of any extension period granted by the township or
14 county assessor under IC 6-1.1-3-7(b).



(c) The penalties prescribed under this section do not apply to an individual or the individual's dependents if the individual:

(1) is in the military or naval forces of the United States on the assessment date; and

(2) is covered by the federal ~~Soldiers' and Sailors' Civil Relief Act~~ **Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.)**.

(d) If a person subject to IC 6-1.1-3-7(d) fails to include on a personal property return the information, if any, that the department of local government finance requires under IC 6-1.1-3-9 or IC 6-1.1-5-13, the county auditor shall add a penalty to the property tax installment next due for the return. The amount of the penalty is twenty-five dollars (\$25).

(e) If the total assessed value that a person reports on a personal property return is less than the total assessed value that the person is required by law to report and if the amount of the undervaluation exceeds five percent (5%) of the value that should have been reported on the return, then the county auditor shall add a penalty of twenty percent (20%) of the additional taxes finally determined to be due as a result of the undervaluation. The penalty shall be added to the property tax installment next due for the return on which the property was undervalued. If a person has complied with all of the requirements for claiming a deduction, an exemption, or an adjustment for abnormal obsolescence, then the increase in assessed value that results from a denial of the deduction, exemption, or adjustment for abnormal obsolescence is not considered to result from an undervaluation for purposes of this subsection.

(f) If a person required by IC 6-1.1-3-7.2(k) to file an annual certification with the county assessor fails to timely file the annual certification, the county auditor shall impose a penalty of twenty-five dollars (\$25) that must be paid by the person with the next property tax installment that is collected.

(g) A penalty is due with an installment under subsection (a), (d), (e), or (f) whether or not an appeal is filed under IC 6-1.1-15-5 with respect to the tax due on that installment.

SECTION 2. IC 6-3-2-4, AS AMENDED BY P.L.6-2012, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) Each taxable year, an individual, or the individual's surviving spouse, is entitled to an adjusted gross income tax deduction for the first five thousand dollars (\$5,000) of income, including retirement or survivor's benefits, received during the taxable year by the individual, or the individual's surviving spouse, for the individual's service in an active or reserve component of the armed



forces of the United States, including the army, navy, air force, coast guard, marine corps, merchant marine, Indiana army national guard, or Indiana air national guard. ~~However, a person who is less than sixty (60) years of age on the last day of the person's taxable year, is not, for that taxable year, entitled to a deduction under this section for retirement or survivor's benefits.~~

(b) An individual whose qualified military income is subtracted from the individual's federal adjusted gross income under IC 6-3-1-3.5(a)(21) for Indiana individual income tax purposes is not, for that taxable year, entitled to a deduction under this section for the individual's qualified military income.

SECTION 3. IC 10-16-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. An employer who knowingly or intentionally refuses to allow a member of the Indiana national guard to attend any assembly at which the member has a duty to perform under this chapter commits a Class B misdemeanor.

SECTION 4. IC 10-16-7-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 23. (a) As used in this section, "active duty" means:

- (1) training or duty under federal law; or
- (2) state active duty under section 7 of this chapter; performed under an order of the governor.

(b) The rights, benefits, and protections of the federal ~~Soldiers' and Sailors' Civil Relief Act~~, **Servicemembers Civil Relief Act**, 50 U.S.C. App. 501 et seq., ~~as amended and in effect on January 1, 2003~~, apply to:

- (1) a member of the Indiana national guard ordered to active duty for at least thirty (30) consecutive days;
- (2) **an individual on active duty serving in the armed forces of the United States; or**
- (3) **a spouse or dependent of an individual described in subdivision (1) or (2), if applicable.**

(c) The rights, benefits, and protections of the federal Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 et seq., as amended and in effect on January 1, 2003, apply to a member of the Indiana national guard ordered to active duty.

(d) Nothing in this section shall be construed as a restriction or limitation on any of the rights, benefits, and protections granted to a member of the Indiana national guard under federal law.

SECTION 5. IC 10-16-20 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:



Chapter 20. Servicemembers Civil Relief Act

Sec. 1. This chapter is intended to supplement rights and protections provided in the federal Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.).

Sec. 2. The following definitions apply throughout this chapter:

(1) "Court" means a court or an administrative agency of the United States or of any state including a political subdivision of a state, whether or not a court or administrative agency of record.

(2) "Dependent", with respect to a servicemember, means:

(A) the servicemember's spouse;

(B) the servicemember's child; or

(C) an individual for whom the servicemember provided more than one-half (1/2) of the individual's support for one hundred eighty (180) days immediately preceding an application for relief under this chapter.

(3) "Judgment" means any final or temporary judgment, decree, order, or ruling.

(4) "Military service" means:

(A) in the case of a servicemember who is a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, full-time duty in the active military service of the United States, including:

(i) full-time training duty;

(ii) annual training duty; and

(iii) attendance;

while at a school designated as a service school by federal law or by the secretary of the military department concerned;

(B) in the case of a member of the National Guard, service under a call to active service authorized by the President of the United States or the Secretary of Defense for a period of more than thirty (30) days in response to a national emergency declared by the President of the United States;

(C) in the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service;

(D) for a servicemember of the Indiana National Guard, active duty as defined by IC 10-16-7-23(a) for a period of more than thirty (30) consecutive days; or

(E) any period during which a servicemember is absent



from duty on account of sickness, wounds, leave, or other lawful cause.

(5) "Period of service" means the period beginning on the date on which a servicemember enters military service and ending on the date on which the servicemember is released from military service or dies while in military service.

(6) "Secretary" refers to:

(A) the Secretary of the Army with respect to matters concerning the Army;

(B) the Secretary of the Navy with respect to matters concerning the Navy;

(C) the Secretary of the Air Force with respect to matters concerning the Air Force;

(D) the Secretary of Homeland Security with respect to matters concerning the Coast Guard when the Coast Guard is not operating as a service in the Department of the Navy;

(E) the Secretary of Health and Human Services with respect to a commissioned officer of the Public Health Service; and

(F) the Secretary of Commerce with respect to a commissioned officer with the National Oceanic and Atmospheric Administration.

(7) "State" includes:

(A) a commonwealth, territory, or possession of the United States; or

(B) the District of Columbia.

Sec. 3. (a) The dependent of a servicemember has the same rights and protections provided to a servicemember under Title II of the federal Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.).

(b) In any civil action or proceeding against the dependent of a servicemember, the plaintiff shall serve or mail, by registered or certified mail, a written notice on a form prescribed by the office of the Attorney General of the United States.

(c) For purposes of this chapter, the court shall presume that the defendant is not the dependent of a servicemember if either of the following applies:

(1) Notice is served at least twenty (20) days before an application for default judgment and the defendant fails to timely respond.

(2) Notice is mailed to the defendant more than twenty-three



(23) days before an application for default judgment and the defendant fails to timely respond.

(d) This section may not be construed to prohibit the plaintiff from extending the response time beyond twenty (20) days.

(e) A person who knowingly or intentionally makes or uses an affidavit permitted under Title II of the federal Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) that is false commits perjury, a Level 6 felony under IC 35-44.1-2-1.

Sec. 4. (a) In addition to the rights and protections regarding consumer transactions, contracts, and service providers included in Title III of the federal Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.), a servicemember may terminate a contract described in subsection (b) at any time after the date the servicemember receives military orders to relocate for a period of service of at least ninety (90) days to a location that does not support the contract.

(b) This section applies to a contract to provide any of the following:

- (1) Telecommunication services.
- (2) Internet services.
- (3) Television services.
- (4) Athletic club or gym memberships.
- (5) Satellite radio services.

(c) Termination of a contract must be made by delivery of a written or electronic notice of the termination and a copy of the servicemember's military orders to the service provider. If a servicemember terminates a contract, the service provider shall provide the servicemember with a written or electronic notice of the servicemember's rights.

(d) For any contract terminated under this section, the service provider under the contract may not impose an early termination charge, but any tax or any other obligation or liability of the servicemember that, in accordance with the terms of the contract, is due and unpaid or unperformed at the time of termination of the contract shall be paid or performed by the servicemember.

(e) If the servicemember resubscribes to the service provided under a covered contract during the ninety (90) day period beginning on the last day of the servicemember's period of service involving relocation, the service provider may not impose a charge or reinstating service fee, other than the usual and customary charges and fees for the installation or acquisition of customer equipment imposed on any other subscriber.



(f) Not later than sixty (60) days after the effective date of the termination of a contract under this section, the service provider under the contract shall refund to the servicemember any fee or other amount to the extent paid for a period extending until after that date, except for the remainder of the monthly or similar billing period in which the billing period occurs.

Sec. 5. A civil action to enforce this chapter may be brought by the attorney general against any person that violates any provision of this chapter. However, a civil action may not proceed if relief from the violation has already been granted.

SECTION 6. IC 14-19-3-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 6. (a)** The department may not charge a price of admission to a veteran who is a resident of Indiana and:

(1) was discharged or released from the uniformed services under conditions other than dishonorable; or
 (2) is an active duty member of the uniformed services, including a member of the National Guard and Reserve on active duty orders under 10 U.S.C. 1209 and 10 U.S.C. 1211; for the use of state parks, playgrounds, and historical sites held or managed by the department.

(b) The department may allow a twenty-five percent (25%) reduction of any fees charged for facilities, lodging, and recreational activities held or managed by the department under IC 14-19 and IC 14-20 for an individual described in subsection (a).

(c) The department, in collaboration with the Indiana department of veterans' affairs, may adopt rules under IC 4-22-2 to require that appropriate identification be made of an individual described in subsection (a) by the issuance of an entitlement card approved by the department and the Indiana department of veterans' affairs.

SECTION 7. IC 14-22-12-7.3, AS ADDED BY P.L.219-2014, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 7.3. (a)** Subject to the commission adopting fees under subsection (b), the department may issue to residents of Indiana lifetime licenses to hunt, fish, or trap.

(b) **Subject to subsection (c)**, the commission may adopt rules under IC 4-22-2 and IC 14-10-2-4 to establish fees for lifetime licenses to hunt, fish, or trap.

(c) **Notwithstanding subsection (b)**, the department may issue a lifetime license to hunt, fish, or trap, free of charge, to a veteran who:



- (1) is a resident of Indiana; and
- (2) was discharged or released from the uniformed services under conditions other than dishonorable.
- (d) The department may issue to an individual who:
 - (1) is a nonresident of Indiana;
 - (2) has served in the armed forces of the United States; and
 - (3) has a service connected disability as evidenced by:
 - (A) records of the United States Department of Veterans Affairs; or
 - (B) disability retirement benefits awarded to the individual under laws administered by the United States Department of Defense;

a lifetime license, at a reduced fee, to hunt, fish, or trap. The department may enter into reciprocal agreements with other states to carry out the intent of this subsection.

SECTION 8. IC 21-13-4-2, AS ADDED BY P.L.2-2007, SECTION 254, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. Money in the National Guard tuition supplement program fund shall be used to provide annual scholarships to scholarship applicants in an amount that is equal to one (1) of the following amounts:

- (1) If the scholarship applicant does not receive other financial assistance specifically designated for educational costs, the amount equal to a full tuition scholarship to attend the state educational institution.
- (2) If the scholarship applicant receives other financial assistance specifically designated for educational costs, the amount:
 - (A) equal to the balance required to attend the state educational institution; and
 - (B) not to exceed the amount described in subdivision (1).
- (3) If the scholarship applicant receives financial assistance under the Servicemen's Readjustment Act of 1944, the amount equal to the balance required to attend the state educational institution. The amount may not exceed the amount described in subdivision (1).**

SECTION 9. IC 21-13-4-3, AS AMENDED BY P.L.281-2013, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) Subject to subsections (b) and (c), each scholarship awarded under this chapter:

- (1) may be renewed under this chapter for a total scholarship award that does not exceed the equivalent of the number of terms that constitutes four (4) undergraduate academic years; and



(2) is subject to other eligibility criteria as established by the commission.

(b) Any benefits awarded under this chapter may not be renewed if the eligible individual fails to maintain at least the following cumulative grade point average:

(1) For credit hours applicable to the equivalent of the applicant's freshman academic year, a cumulative grade point average that the eligible institution determines is satisfactory academic progress.

(2) For credit hours applicable to the equivalent of the applicant's sophomore academic year, a cumulative grade point average of 2.25 on a 4.0 grading scale or its equivalent as established by the eligible institution.

(3) For credit hours applicable to the equivalent of the applicant's junior or senior academic year, a cumulative grade point average of 2.5 on a 4.0 grading scale or its equivalent as established by the eligible institution.

(c) After the first semester or its equivalent at the eligible institution that a person does not achieve the requisite cumulative grade point average specified in subsection (b), the person is considered to be on probation and must achieve the requisite cumulative grade point average by the next semester or its equivalent at the eligible institution in order to continue to receive benefits under this chapter.

(d) In establishing eligibility criteria under subsection (a)(2), the commission shall allow individuals who are serving in the Indiana reserve component of the armed forces of the United States to be eligible to receive a scholarship under this chapter.

SECTION 10. IC 21-13-4-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 4. There is annually appropriated to the National Guard tuition supplement program fund from the general fund an amount necessary to fully fund scholarships provided under this chapter.**

SECTION 11. IC 22-4.1-4-3, AS ADDED BY P.L.11-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 3. (a) As used in this section, "active duty" means:**

(1) full-time service in the National Guard for more than thirty (30) consecutive days in a calendar year;

(2) full-time service in the reserves for more than thirty (30) consecutive days in a calendar year; or

(3) active duty in the armed forces of the United States.



(b) As used in this section, "armed forces of the United States" means:

- (1) the United States Air Force;
- (2) the United States Army;
- (3) the United States Coast Guard;
- (4) the United States Marine Corps; or
- (5) the United States Navy.

~~(b)~~ (c) As used in this section, "National Guard" means:

- (1) the Indiana Army National Guard; or
- (2) the Indiana Air National Guard.

(d) As used in this section, "reserves" means reserve components of the military forces listed in subsection (b).

~~(e)~~ (e) This section applies to a member of the **armed forces of the United States, reserves, or** National Guard who:

- (1) is a resident of Indiana; and
- (2) serves on active duty.

~~(d)~~ (f) Unless otherwise provided by federal law, the department shall give a member of the **armed forces of the United States, reserves, or** National Guard or the spouse of a member of the **armed forces of the United States, reserves, or** National Guard priority for placement in any federal or state employment or training program administered by the department if the member or the member's spouse:

- (1) submits documentation satisfactory to the department establishing the dates of the member's active service; and
- (2) meets the eligibility requirements for the program.

~~(e)~~ (g) The priority status under subsection ~~(d)~~ (f) for a member of the **armed forces of the United States, reserves, or** National Guard expires one (1) year after the date the member is discharged or released from active duty.

~~(f)~~ (h) The priority status under subsection ~~(d)~~ (f) for the spouse of a member of the **armed forces of the United States, reserves, or** National Guard expires on the date the member is discharged or released from active duty.

SECTION 12. IC 22-9-10-9, AS ADDED BY P.L.136-2014, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. It is an unlawful employment practice for an employer to discriminate against a prospective employee on the basis of status as a veteran by:

- (1) refusing to employ an applicant for employment on the basis that the applicant is a veteran of the armed forces of the United States; ~~or~~
- (2) refusing to employ an applicant for employment on the basis



that the applicant is a member of the Indiana National Guard or
a member of a reserve component; **or**

**(3) asking an applicant for employment whether the applicant
is a member of a reserve component.**

SECTION 13. IC 22-9-10-13, AS ADDED BY P.L.136-2014,
SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2015]: Sec. 13. **(a)** The commission may adopt and enforce
rules under IC 4-22-2 that are necessary to carry out this chapter.
Except as provided under subsection (b), these rules must not be in
conflict with the federal rules adopted under the employment
discrimination provisions of the federal Uniformed Services
Employment and Reemployment Rights Act (USERRA), P.L.103-353
(38 U.S.C. 4301 et seq.).

**(b) A person injured by a violation of section 9 of this chapter
may bring a civil action for:**

(1) actual damages caused by the violation;

(2) treble damages;

(3) liquidated damages; and

(4) costs and reasonable attorney's fees.

SECTION 14. IC 22-9-10-15, AS ADDED BY P.L.136-2014,
SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2015]: Sec. 15. Each employer subject to this chapter shall
provide notice of this chapter in a format accessible to applicants,
describing the applicable provisions of this chapter. The department
shall assist the commission in devising language for the use of an
employer that complies with this chapter and any rules adopted under
section ~~13~~ **13(a)** of this chapter.

SECTION 15. IC 33-23-9-1 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) An Indiana state
court may grant the rights, benefits, and protections described in
Section 513 of the federal ~~Soldiers' and Sailors' Civil Relief Act,~~
Servicemembers Civil Relief Act, 50 U.S.C. App. 513, ~~as amended~~
~~and in effect on January 1, 2003;~~ to a person primarily or secondarily
liable on an obligation or a liability of: ~~an~~

(1) an Indiana national guard member to whom IC 10-16-7-23
applies;

**(2) an individual on active duty serving in the armed forces of
the United States; or**

**(3) a spouse or dependent of an individual described in
subdivision (1) or (2), if applicable.**

(b) All rights, benefits, and protections granted to a person under
subsection (a) are in addition to the rights, benefits, and protections



1 granted the person under the federal ~~Soldiers' and Sailors' Civil Relief~~
2 ~~Act, Servicemembers Civil Relief Act~~, 50 U.S.C. App. 501 et seq. as
3 amended and in effect on January 1, 2003.

